

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1035

Introduced by

Legislative Council

(Government Performance and Accountability Committee)

1 A BILL for an Act to provide for a state government performance and accountability system; to
2 amend and reenact sections 54-44.1-06 and 54-44.1-08 of the North Dakota Century Code,
3 relating to information included in the executive budget; and to provide an appropriation.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. Government performance and accountability system.** The
6 government performance and accountability system is created to provide agency managers,
7 the governor, the legislative assembly, and the public with the information necessary to
8 evaluate and assess agency performance and accountability for the purpose of ensuring that
9 state government services are effective and state resources are used efficiently. The office of
10 management and budget shall establish and maintain, subject to the input of and review by the
11 government performance and accountability committee, the government performance and
12 accountability system for executive branch agencies and departments. The system must focus
13 on the results of major agency activities by providing written strategies and related indicators to
14 measure agency performance. The university system shall participate in the system in
15 accordance with section 15-10-14.2 and shall present its performance and accountability
16 information to the government performance and accountability committee upon request.

17 **SECTION 2. Definitions. As used in this Act:**

- 18 1. "Goal" means a purpose statement that guides the efforts of an agency or
19 program.
- 20 2. "Objective" means a measurable statement identifying the accomplishments that
21 an agency or program must achieve to realize the successful completion of a goal.
- 22 3. "Performance measure" means a quantitative or qualitative indicator used to
23 assess the outcome or result of an agency or department objective.

- 1 4. "Performance measurement indicators" means performance measures,
2 performance results, performance targets, and related analytical, explanatory, and
3 supporting information.
- 4 5. "Performance result" means a numeric value relating to a performance measure
5 calculated or determined based on actual agency or department performance for a
6 specified time period.
- 7 6. "Performance target" means a numeric value established for a performance
8 measure to identify a projected level of agency or department performance for a
9 specified time period.

10 **SECTION 3. Government performance and accountability committee -**
11 **Appointment - Additional participation - Acceptance and expenditure of funds.** The
12 legislative council, during each biennium, shall appoint a government performance and
13 accountability committee in the same manner as the council appoints other interim committees.
14 The council shall appoint to the committee up to four members of the house of representatives,
15 at least one from each political party, and up to four members of the senate, at least one from
16 each political party. The council shall designate the chairman of the committee. The council
17 may appoint up to two citizens to the committee to serve up to three 2-year terms. Any citizen
18 member appointed must have demonstrated experience in developing or implementing goals
19 and objectives in a large organization. These members are entitled to compensation under
20 section 54-35-10 for attendance at meetings of the committee. The council shall consider
21 reappointment of members to the committee to maintain continuity. The director of the office of
22 management and budget, or the director's designee, and the state auditor, or the state auditor's
23 designee, are members of the committee. The chairman may invite up to four additional
24 members of the house of representatives, at least one from each political party, and up to four
25 additional members of the senate, at least one from each political party, to attend meetings of
26 the committee when committee discussion relates to the members' legislative standing
27 committee assignments. These members are entitled to vote and to compensation under
28 section 54-35-10 for attendance at meetings to which they are invited under this section. The
29 committee shall operate in accordance with the statutes and procedures governing the
30 operation of other legislative council interim committees. The committee may accept and use
31 gifts, grants, or assistance to accomplish its purposes.

1 **SECTION 4. Government performance and accountability committee - Powers**
2 **and duties - Staff services.** The government performance and accountability committee has
3 continuing existence and may meet and conduct its business during the legislative session and
4 in the interim between sessions. The committee shall monitor state government performance
5 and accountability by reviewing state agency missions, goals, objectives, strategic plans, and
6 performance measurement indicators and by receiving public input regarding state agency
7 performance and accountability. The committee shall assess the effectiveness of the
8 government performance and accountability system. The committee shall report its findings
9 and recommendations along with any necessary legislation, to the legislative council. The
10 legislative council shall provide staff services to assist the committee in performing its duties
11 and responsibilities, including assisting in the development of a consistent format for agencies
12 and departments to submit their biennial goals and objectives or strategic plans and
13 performance measurement indicators, analyzing agencies' and departments' performance
14 measures prior to committee review, and summarizing performance measurement indicators
15 for review by the committee or the legislative assembly.

16 **SECTION 5. Biennial goals - Performance measurement indicators.** Each
17 executive branch agency and department, as identified by the office of management and
18 budget, shall prepare biennial goals and objectives and related performance measurement
19 indicators for major programs of the agency or department for the next biennium. The
20 performance measures must provide, to the extent possible, the data necessary to assess the
21 performance of major activities of an agency, including a program's efficiency and
22 effectiveness; and provide a comparison, to the extent appropriate, to other states' performance
23 measures. An agency or department that does not have assessment data available for a major
24 activity of the agency or department shall provide an explanation of the reasons for the lack of
25 assessment data. Each executive branch agency or department shall present its biennial goals
26 and objectives and related performance measurement indicators to the government
27 performance and accountability committee upon request. The government performance and
28 accountability committee may make recommendations for changes to an agency's or
29 department's biennial goals, objectives, and related performance measurement indicators.

30 **SECTION 6. State agency strategic plans.** Within two years of review by the
31 legislative assembly of an agency's or department's performance measures, the agency or

1 department shall establish and maintain a three-year to five-year strategic plan to guide its
2 operations and activities. The strategic plan must include:

- 3 1. The mission, goals, and objectives of the agency or department.
- 4 2. Identification of the groups of people served by the agency and the results of any
5 methodology used to assess and improve services.
- 6 3. The strategies and activities utilized to meet agency or department goals and
7 objectives.
- 8 4. A general description of the agency's or department's sources and uses of funds.
- 9 5. Estimated future service requirements and the resources that may be necessary to
10 meet those requirements.
- 11 6. External factors affecting services of the agency or department.
- 12 7. The performance measurement indicators developed under this Act used to
13 evaluate and assess the agency's or department's performance.

14 **SECTION 7. State agency performance reports - State auditor reviews.** Each
15 executive branch agency and department shall prepare a biennial performance report that
16 summarizes its goals and objectives, compares performance results to performance targets,
17 provides explanations of any major variances between performance results and targets,
18 presents multiyear trends in performance results, and, to the extent possible, provides
19 comparisons to other states' performance results and national benchmarks. The report must
20 be presented to the budget section of the legislative council by October 31 of each
21 even-numbered year. The state auditor, as part of each executive branch agency's biennial
22 operational audit or review as required by section 54-10-01 shall review selected agency or
23 department performance results for validity and reliability.

24 **SECTION 8. Government performance - Incentive and review recommendations.**
25 Based on an agency's or department's performance results, the government performance and
26 accountability committee may recommend to the legislative assembly that an agency or
27 department receive an incentive or be subject to a review.

- 28 1. An incentive recommendation may include:
 - 29 a. Additional flexibility to transfer funds between line items of the agency's or
30 department's appropriation.

- 1 b. Authorization to retain all or a portion of the agency's or department's unspent
2 appropriation authority at the end of a biennium.
- 3 c. Additional funding for the agency or department that may assist it in achieving
4 its goals and objectives or that may be used for one-time purposes, including
5 employee salary adjustments, employee training, technology improvements,
6 or other productivity enhancements.
- 7 2. A review recommendation may include:
- 8 a. More frequent reporting of agency or department performance results.
- 9 b. A review by the office of management and budget of the agency, department,
10 or program goals, objectives, and performance measurement indicators
11 resulting in recommendations to improve the agency's or department's
12 performance results.
- 13 c. A state auditor performance audit of select agency or department programs.

14 **SECTION 9. Legislative and judicial branch participation.** The legislative branch
15 and the judicial branch shall participate in the government performance and accountability
16 system by providing to the government performance and accountability committee information
17 on their missions, goals, objectives, services provided, strategies and activities, the use of
18 agency resources, estimated future service and resource requirements, and external factors
19 affecting services and performance measurement indicators as requested by the committee.
20 The legislative branch and the judicial branch, as requested, shall assist the government
21 performance and accountability committee to identify appropriate performance measures to
22 assess their programs and, to the extent appropriate, provide a comparison to other states'
23 performance measures.

24 **SECTION 10. AMENDMENT.** Section 54-44.1-06 of the North Dakota Century Code,
25 as effective after June 30, 2005, is amended and reenacted as follows:

26 **54-44.1-06. (Effective after June 30, 2005) Preparation of the budget data -**

27 **Contents.** The director of the budget, through the office of the budget, shall prepare budget
28 data which must contain and include the following:

- 29 1. Summary statements of the financial condition of the state, accompanied by the
30 detailed schedules of assets and liabilities as the director of the budget determines
31 desirable, which must include the following:

- 1 a. Summary statements of fund balances and assets showing in detail for each
2 fund the surplus or deficit at the beginning of each of the two fiscal years of
3 the previous biennium and the first fiscal year of the present biennium, the
4 actual revenue for those years, the total appropriations for the previous and
5 present biennium, and the total expenditures for those fiscal years; and
6 b. Similar summary statements of the estimated fund balances and assets for
7 the current fiscal year and each of the fiscal years of the next biennium.
8 Summary statements may include a comparative consolidated balance sheet
9 showing all the assets and liabilities of the state and the surplus or deficit, as the
10 case may be, at the close of the first fiscal year of the current biennium.
- 11 2. Statements of actual revenue for the previous biennium, the first year of the
12 present biennium, and the estimated revenue of the current fiscal year and of the
13 next biennium, and a statement of unappropriated surplus expected to have
14 accrued in the state treasury at the beginning of the next fiscal year. The
15 statement of unappropriated surplus for the general fund must reflect any projected
16 deficiency appropriations relating to expenditures from the general fund for the
17 present biennium. The statements of revenue and estimated revenue must be
18 classified by sources and by budget unit collecting them. Existing sources of
19 revenue must be analyzed as to their equity, productivity, and need for revision,
20 and any proposed new sources of revenue must be explained.
- 21 3. Summary statements of expenditures of the previous biennium and first year of the
22 present biennium, itemized by budget units and classified as prescribed by the
23 director of the budget.
- 24 4. Detailed comparative statements of expenditures and requests for appropriations
25 by funds, budget units and classification of expenditures, showing the expenditures
26 for the previous biennium, the first fiscal year of the present biennium, the budget
27 of the current biennium, and the governor's recommendation for appropriations for
28 each budget unit for the next biennium, all distributed according to the prescribed
29 classification of expenditures. Following the lists of actual and proposed
30 expenditures of each budget unit there must be a brief explanation of the functions
31 of the unit and comments on its policies and plans and on any considerable

1 differences among the amounts recommended, with any descriptive, quantitative,
2 comparative, and other data as to work done, unit costs, and like information as
3 may be considered necessary or desirable. For capital outlay expenditures
4 involving construction projects to be completed in two or more fiscal years, there
5 must be shown the total estimated cost of each such project and the amount
6 thereof recommended to be appropriated and expended in each ensuing fiscal
7 year until completion of the project. Capital outlay needs may be projected for at
8 least two years beyond the period covered by the budget.

9 5. A detailed statement showing the estimate of all moneys required to be raised or
10 appropriated for the payment of interest upon the funded debt of the state and its
11 other obligations bearing interest, and the amount of money required to be
12 contributed in the two next ensuing fiscal years to the general sinking funds
13 maintained for the redemption and payment of the debts of the state.

14 6. A summary statement of the unappropriated fund balance estimated to be
15 available at the beginning of the next biennium, and the estimated revenue of the
16 next biennium, as compared with the total recommended amounts of appropriation
17 for all classes of expenditures for the next biennium, and if the total of the
18 recommended expenditures exceeds the total of the estimated resources,
19 recommendations as to how the deficiency is to be met and estimates of any
20 proposed additional revenue.

21 7. For those budget units involved in the government performance and accountability
22 system and which submit budget estimates under section 54-44.1-04, statements
23 summarizing each agency's or department's biennial goals and objectives or
24 strategic plan and performance measurement indicators for recent years and the
25 next biennium.

26 8. Drafts of a proposed general appropriations act and special appropriations acts
27 embodying the budget data and recommendations of the governor for
28 appropriations for the next biennium and drafts of such revenues and other acts
29 recommended by the governor for putting into effect the proposed financial plan.
30 The recommended general appropriation for each budget unit must be specified in
31 a separate section of the general appropriations act.

1 ~~8-~~ 9. A list of every individual asset or service, excluding real estate, with a value of at
2 least fifty thousand dollars and every group of assets and services comprising a
3 single system with a combined value of at least fifty thousand dollars acquired
4 through a capital or operating lease arrangement or debt financing arrangement by
5 a state agency or institution. The list must include assets or services acquired in
6 the current biennium and anticipated assets or services to be acquired in the next
7 biennium.

8 ~~9-~~ 10. Any other information as the director of the budget determines desirable or as is
9 required by law.

10 **SECTION 11. AMENDMENT.** Section 54-44.1-08 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **54-44.1-08. Budget report - Contents - When submitted to legislative assembly.**

13 The official budget report must be transmitted by the governor to all holdover legislators and
14 legislators-elect not later than three days after the commencement of the session of the
15 legislative assembly. Such report is not a third-class item under section 46-02-05. The budget
16 director shall provide for the duplication or other satisfactory reproduction or printing of the
17 official budget report, so as to ensure delivery of same as provided in this section. Such
18 reports must contain the budget and revenue proposals recommended by the governor and the
19 information required in subsections 1, 2, 3, 5, ~~and 6,~~ and 7 of section 54-44.1-06 and all other
20 data and information as the governor shall decide. The budget director shall make available
21 any and all information regarding budget data to the governor, the legislative assembly and its
22 designees, legislators, and to the governor-elect as may be requested. The governor may
23 present any additional budget information in any manner to the legislative assembly as the
24 governor may desire.

25 **SECTION 12. Government performance and accountability system -**

26 **Implementation.** The office of management and budget, in developing a government
27 performance and accountability system, shall assist executive branch agencies and
28 departments to develop biennial goals and objectives, strategic plans, and performance
29 measurement indicators. The office of management and budget shall arrange for selected
30 state agencies and departments to implement the system during the 2005-07 biennium and the
31 remainder of the agencies and departments during the 2007-09 biennium.

1 **SECTION 13. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET.**

2 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
3 appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the office
4 of management and budget for the purpose of contracting with a consultant to train agency
5 personnel and to assist agencies and departments in developing strategic plans and
6 performance measures to comply with provisions of this Act, for the biennium beginning July 1,
7 2005, and ending June 30, 2007.